

**MINUTES**  
**YORK COUNTY PLANNING COMMISSION**  
Regular Meeting  
York Hall, 301 Main Street  
August 9, 2006

**MEMBERS**  
Christopher A. Abel  
Nicholas F. Barba  
Anne C. H. Conner  
John R. Davis  
Alexander T. Hamilton  
Alfred E. Ptasznik, Jr.  
John W. Staton

**CALL TO ORDER**

Chair Alfred E. Ptasznik, Jr. called the meeting to order at 7:00 PM.

**REMARKS**

Chair Ptasznik stated that the Code of Virginia requires local governments to have a Planning Commission, the purpose of which is to advise the Board of Supervisors on land use and planning issues affecting the County. The responsibility is exercised through recommendations conveyed by resolutions or other official means and all are matters of public record. He indicated that the Commission is comprised of citizen volunteers, appointed by the Board, representing each voting district and two at-large members.

**ROLL CALL**

The roll was called and all members were present. Staff members present were J. Mark Carter, James E. Barnett, Jr., Timothy C. Cross, Amy Parker, and Earl W. Anderson.

**APPROVAL OF MINUTES**

Mr. Hamilton moved to adopt minutes of the regular July 12, 2006 meeting and the Commission adopted them unanimously.

**CITIZEN COMMENTS**

There were no citizen comments.

**PUBLIC HEARINGS**

**Application No. UP-706-06, Michael J. Davenport:** Request for a Special Use Permit, pursuant to Section 24.1-407(b)(2) of the York County Zoning Ordinance, to authorize a 714-square foot detached accessory apartment on a 0.421-acre parcel of land located at 103 Todd Court (Route 1722) approximately 200 feet northeast of its intersection with Harlan Drive (Route 1720) and further identified as Assessor's Parcel No. 24-40-37. The

property is zoned R20 (Medium Density Single-Family Residential District) and is designated Medium Density Residential in the Comprehensive Plan.

**Earl Anderson, AICP**, Planner, presented a summary of the staff memorandum dated August 1, 2006, in which the staff recommended approval.

**Mr. Hamilton** inquired about the adequacy of the setback from the rear of the proposed detached apartment building to the rear of the property and **Mr. Anderson** replied it is slightly more than the minimum distance required. **Mr. Hamilton** asked how the driveway to the proposed garage/apartment would be surfaced, and **Mr. Anderson** referred the question to the applicant.

**Mr. Davis** wanted to know if the existing accessory structure on the applicant's lot would be moved. **Mr. Anderson** indicated that was not part of the plan that was submitted; he thought the proposed garage/apartment structure would replace it.

There were no other questions and **Chair Ptasznik** opened the public hearing.

**Mr. Michael J. Davenport**, 103 Todd Court, spoke in behalf of his application. He said the garage is to be used for storing tools and equipment that presently are in his yard and for parking a family vehicle. He requested the accessory apartment for possible periodic use, if needed, by any of his children or for a place to conduct his hobbies. He would never rent it, he added.

**Mr. Davis** asked if the present accessory structure would remain; **Mr. Davenport** indicated it would remain for the foreseeable future unless he decided to sell it.

**Mr. Davenport** addressed **Mr. Hamilton's** question, indicating he planned to pave the driveway with concrete.

**Mr. Abel** asked if the applicant had in mind a specific relative to reside in the requested apartment, such as a parent, uncle, or cousin. **Mr. Davenport** noted that he did not foresee any older relative coming to live there, particularly as it would be a two-story structure. It would be available to any of his adult children, he added, should it become necessary.

**Mr. Ptasznik** asked the applicant if it was feasible to build the second story as simply a storage area at this time, and apply for a use permit in the future.

**Mr. Davenport** said it was more cost-effective to complete as much as possible during the initial construction. He added that a Special Use Permit would not have been required had he not wanted to install a shower in the upper level, in which case construction would already be underway.

**Mr. Ptasznik** asked the applicant if he was covered by the restrictive covenants to which the staff report alluded, and **Mr. Davenport** said that he was. **Mr. Ptasznik** asked how he intended to handle those restrictions. The applicant stated that his attorney has reviewed the covenants and is of the opinion that the proposed structure and use are not inconsistent with the covenants; **Mr. Davenport** said he would do whatever was necessary for approval based on the recommendations of his attorney and the Commission.

**Mr. Steven Mucklow**, 204 Harlan Drive, spoke in opposition to the application. He believed the proposed use was in violation of paragraph 5 of the restrictive covenants of Wolftrap Estates (copy attached to and made a part of the minutes of record). He also believed approval could set a precedent and asked the Commission to vote to uphold the restrictions set by the Wolftrap Estates community.

**Mr. Timothy Christensen**, 113 Davids Way, was opposed because approval would violate the restrictive covenants for Wolftrap Estates and approval could set a precedent for permits for similar properties, ultimately paving the way for a higher density neighborhood. Mr. Christensen also believed all property owners in the community should have received letters of notification at least 30 days before the public hearing.

**Ms. Mun Christensen**, 113 Davids Way, did not agree with the staff recommendation of approval. She also owns the house at 106 Davids Way and she was worried that approval could set a precedent resulting in a high population density and reducing the quality of life in Wolftrap Estates.

**Ms. Nancy Clark**, 119 Harlan Drive, was opposed. She said the proposed size of the apartment, based on the applicant's 1,800 sf home, would be too large an accessory structure for the small lot and could negatively impact the neighborhood. She thought the proposed Zoning Ordinance text amendments for accessory apartments were detrimental and had the potential to set a precedent. Ms. Clark also was fearful that approval would ultimately lead to rezoning the neighborhood to a high density residential classification and opening rights-of-way to the higher density development next to Wolftrap Estates. She was opposed.

**Ms. Moira Grant**, 109 Davis Way, believed the project would devalue her property and the qualities of living in Wolftrap Estates. She liked the rural nature of the area, and echoed comments of other speakers who were concerned that approval would set a precedent to build "other homes on these half-acre lots for family and friends." She was also concerned about the view from her back yard toward such a large structure.

**Mr. Robert Hafley**, 111 Davids Way, agreed with others who had spoken. While the Commission is not bound by the restrictive covenants, he said, he asked them to consider how the covenants define the character of the neighborhood and their prohibition against outbuildings as residences. He believed the size of the requested accessory structure was out of character for the neighborhood and asked the Commission to recommend denial.

**Ms. Kathleen Edwards**, 117 Harlan Drive, was opposed to the application, stating that the building would ruin the appearance of the neighborhood, and she compared it to having another house in the applicant's back yard. She asked everyone in the audience who was opposed to raise their hands.

**Mr. Thomas Quick**, 105 Davids Way, referred to paragraphs 1 and 5 of the Wolftrap Estates restrictive covenants. He said the applicant owns one of the smaller lots; if a precedent for accessory apartments was set, homeowners with larger lots could conceivably build something larger and ultimately transform the neighborhood from medium density to high density, obliterating one of the major reasons why he selected that neighborhood.

**Ms. Dee King**, 108 Harlan Drive, said when she bought her home 14 years ago, she was assured by her realtor that Wolftrap Estates was composed of single-family dwellings on large lots, and she

believed that remains the primary attraction for the community. There is no assurance the applicant's home would not change hands and the apartment would not be rented out, which would affect the nature of the neighborhood. She requested the Commission to consider the homeowners' wishes and recommend denial.

**Mr. Daniel Snyder**, 109 Harlan Drive, believed the proposal could violate at least three restrictions in the covenants. He believed approval would be in violation of the Virginia Uniform Statewide Building Code as well as the covenants and lead toward higher density population in the neighborhood, and he was opposed.

**Mr. Bob Marrow**, 106 Harlan Drive, had talked previously with Earl Anderson and understood from their conversation that a bathroom, shower, and tub were not allowed in accessory apartments, but the drawing shows those improvements, thereby making the application invalid. He also believed a violation of the neighborhood covenants would have legal ramifications. Mr. Marrow recommended the application be modified or revised to conform to the Building Code.

**Mr. Davis** commented that the existing shed at the rear of the applicant's property appeared to be in violation.

There being no others to speak, **Chair Ptasznik** closed the public hearing.

**Mr. Carter** stated there appeared to be some confusion over the recent amendments to the accessory apartment provisions of the Zoning Ordinance. He explained that if the changes were adopted, some detached accessory apartments could be approved administratively if the lot size met certain criteria. If it did not meet the criteria, a detached accessory apartment would require a Special Use Permit.

**Mr. Abel** expressed his surprise and pleasure at the level of community involvement, calling it an example of democracy in action. It was clear to him the neighborhood cares about accessory apartments and did not want them. It was also clear to him that Mr. Davenport wanted to build an accessory apartment and also wanted to be a good neighbor. He believed the neighbors expressed their feelings that a two-story structure was too large and may be amenable to a one-story building with the same footprint. Mr. Abel stressed that the Commission is not supposed to be affected by whether or not the application was in conformance with the Wolftrap Estates restrictive covenants, and his thinking was not affected by that. However, he could not ignore the strong feelings of the community regarding the size and height of the structure, and said he would vote against approval.

**Ms. Conner** believed the proposed accessory building was inappropriate for the lot size and would affect surrounding property owners and potential home buyers.

**Mr. Barba** mentioned that the accessory building could be constructed without approval of a Special Use Permit if the owner were to remove the request for a bathroom.

**Mr. Staton** noted the County had approved similar requests and inasmuch as the restrictive covenants could not be considered, he saw no reason not to approve this application.

**Mr. Davis** observed that the citizens who addressed the Commission expected the County to uphold their recorded covenants.

**Mr. Barnett** explained the County has no enforcing authority and no standing to intervene in subdivision matters by telling property owners what they can or cannot do within the context of their covenants. The covenants are a private contract among and enforceable by the people who live there.

**Mr. Hamilton** observed that the structure appeared to be too large for the lot. He recommended that the applicant talk with his neighbors to attempt a compromise and allow the County time to evaluate and reconsider the application.

**Mr. Ptasznik** agreed that it is a large structure for the lot. He noted the comments that were presented during the public hearing and written comments to staff. He suggested the community form a proper homeowners' association to help enforce the existing covenants.

**Mr. Barba** moved to adopt proposed Resolution PC06-21. It was denied by a vote of 6:1 (No - Abel, Conner, Barba, Davis, Hamilton, Ptasznik; Yes - Staton).

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**Application No. ZT-105-06, York County Board of Supervisors:** Consider amendments to: Section 24.1-104, Definitions; Section 24.1-306, Table of Land Uses; Article 4, Division 10 - Performance Standards for Business and Professional Uses; and, Section 24.1-606, Minimum Off-Street Parking and Loading Requirements of the York County Zoning Ordinance (Chapter 24.1, York County Code) to: define the term "payday loan establishments"; establish a special use permit requirement for tattoo parlors, pawn shops and payday loan establishments; establish performance standards prohibiting the location of such establishments within 2,640 feet of places of worship, public, parochial or private schools, public libraries, or public parks/athletic fields; and, establish distinct off-street parking requirements for such uses.

**Mr. Mark Carter**, Assistant County Administrator, presented a summary of the staff report to the Commission dated August 1, 2006, in which the staff recommended approval.

**Mr. Ptasznik** noted that of the three types of businesses mentioned, payday loan establishments probably had the most existing regulation by the state but he did not think that type of business would have as much effect on children or the community as pawn shops and tattoo parlors. He agreed with the proposals for tattoo shops and pawn shops but recommended careful consideration before imposing unwarranted regulation on payday loan establishments.

**Mr. Carter** mentioned that the Board and the Planning Commission have expressed the desire to protect General Business-zoned land for high revenue-generating businesses that also need high exposure to survive. He did not think of the three named business types, or mini-storage warehouses, as need that exposure.

**Chair Ptasznik** opened the public hearing. Hearing no one, he closed the public hearing.

**Ms. Conner** said that she considered payday loan establishments to be distinctly different from banks and were perceived as taking advantage of some citizens who were unable to qualify for other lines of

credit and may be the least able to afford their considerably higher interest rates. She believed the County should continue to make a strong distinction between that type of business and banks.

**Mr. Abel** observed that the Commission's recommendation would to some degree indicate whether they were impulse- or destination-driven businesses, and he was not certain that the County should encourage impulse destinations for any of those businesses. While they are legitimate, there is a limited amount of attractive high-traffic commercial space available, and it should be considered if the County wants to encourage those particular businesses using that space or make it available for other things.

**Mr. Hamilton** appreciated that the recommendation was based on the opinions of the population identified through a citizen survey. He supported the staff proposal.

**Mr. Ptasznik** supported the proposals.

**Mr. Barba** moved adoption of proposed Resolution No. PC06-20.

Resolution No. PC06-20

On motion of Mr. Barba, which carried 7:0, the following resolution was adopted:

A RESOLUTION TO RECOMMEND APPROVAL OF APPLICATION NO. ZT-105-06 TO AMEND SECTION 24.1-104, DEFINITIONS, SECTION 24.1-306, TABLE OF LAND USES, ARTICLE 4, DIVISION 10 – PERFORMANCE STANDARDS FOR BUSINESS AND PROFESSIONAL USES, AND SECTION 24.1-606, MINIMUM OFF-STREET PARKING AND LOADING REQUIREMENTS OF CHAPTER 24.1, ZONING (YORK COUNTY CODE) TO: DEFINE PAYDAY LOAN ESTABLISHMENTS; ESTABLISH A SPECIAL USE PERMIT REQUIREMENT FOR TATTOO PARLORS, PAWN SHOPS AND PAYDAY LOAN ESTABLISHMENTS; AND, TO ESTABLISH PERFORMANCE STANDARDS RELATED TO THE LOCATION OF SUCH ESTABLISHMENTS

WHEREAS, the York County Board of Supervisors has sponsored this application to give consideration to amendments to Chapter 24.1, Zoning, of the York County Code to include revised definitions and regulations pertaining to tattoo parlors, pawn shops and payday loan establishments; and

WHEREAS, the Board has determined that consideration of such amendments would be consistent with good zoning practice and with the results of a community-wide public opinion survey; and

WHEREAS, said application has been referred to the Planning Commission for review, public hearing and recommendation in accordance with applicable procedures; and

WHEREAS, the Planning Commission has conducted a duly advertised public hearing and has carefully considered the comments and recommendations received from staff and the public; and

WHEREAS, the Commission has determined that approval of the proposed amendments would be consistent with policies promoting protection and enhancement of the character and appearance of the County's commercial corridors and areas;

NOW, THEREFORE, BE IT RESOLVED by the York County Planning Commission, this the 9th day of August, 2006, that it does hereby recommend approval of Application No. ZT-105-06 to amend Sections 24.1-104 and 306, to add a new Section 24.1-470.1, and to amend Section 24.1-606(k) of the Zoning Ordinance to read as set forth below;

### Sec. 24.1-104. Definitions.

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*Payday loan establishment.* A place of business engaged in offering small, short-maturity loans on the security of (i) a check, (ii) any form of assignment of an interest in the account of an individual or individuals at a depository institution, or (iii) any form of assignment of income payable to an individual or individuals, other than loans based on income tax refunds. For the purposes of this chapter, such establishments shall not be construed to be "banks" or "financial institutions."

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### Sec. 24.1-306. Table of land uses.

P=PERMITTED USE S=PERMITTED BY SPECIAL USE PERMIT  USES	RESIDENTIAL DISTRICTS						COMMERCIAL AND INDUSTRIAL DISTRICTS						
							D						
	RC	RR	R20	R13	R7	RMF	NB	LB	GB	WCI	EO	IL	IG
	CATEGORY 11 – BUSINESS / PROFESSIONAL SERVICE												
1. Broadcasting Studio								P	P		P	P	P
2. Barber/Beauty Shop							P	P	P		P		P
3. Apparel Services (Dry Cleaning/Laundry retail) Laundromat, Tailor, Shoe Repair, Etc.)							P	P	P		P	P	P
4. Funeral Home (may include cremation services)								S	P		P		
4a. Cremation Services (human or pets)									S			S	S
5. a) Photographic Studio							S	P	P		P	P	P
b) Film Processing Lab								S	P		P	P	P
6. Household Items Repair									P		P	P	P
7. Fortune Teller,									S				
7.1 Tattoo Parlor												S	
7.2 Pawn Shop									S				
8. a) Banks, Financial Institutions							P	P	P		P		
b) Freestanding Automatic Teller Machines							P	P	P	S	P		
8.1 Payday Loan Establishments									S				
9. Offices						S	P	P	P		P	P	P
10. Hotel & Motel								S	P	S	P		
11. Timeshare Resort						S			S	S	S		
12. Restaurant/Sit Down								P	P		P		
13. Restaurant/Brew-Pub									P		P		
14. Restaurant/Fast Food								S	P		S		
15. Restaurant/Drive In								S	P		S		
16. Restaurant - Carryout/Delivery only							S	P	P		S		

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17. Catering Kitchen/Services							S	P	P		S		
18. Nightclub								S	S		S		
19. Commercial Reception Hall or Conference Center							S	S	P	S	P		
20. Small-Engine Repair (lawn and garden equipment, outboard motors, etc.)									P	P		P	P
21. Tool, Household Equipment, Lawn & Garden Equipment, Rental Establishment									P		P	P	P
22. Establishments Providing Printing, Photocopying, Blueprinting, Mailing, Facsimile Reception & Transmission or similar business services to the general public, and business and professional users								P	P		P	P	P
23. Professional Pharmacy							P	P	P		P		

(Ord. No. 05-34(R), 12/20/05)

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add a new Section 24.1-470.1, as follows:

## **Sec. 24.1-470.1. Standards for tattoo parlors, pawn shops and payday loan establishments.**

- (a) Tattoo parlors, pawn shops or payday loan establishments shall not be located on property that is within ½ mile (2,640 feet) of property occupied by: a place of worship; a public, parochial or private school (K thru 12); a public library; or, a public park or athletic field or facility.
- (b) No tattoo parlor shall be located such that its principal façade or any wall or freestanding signage associated with the establishment is visible from any Primary System road in the County.

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## **Sec. 24.1-606. Minimum off-street parking and loading requirements.**

(k) Category 11 – *Business / Professional Service*

USE	OFF-STREET PARKING SPACES	OFF-STREET LOADING SPACES
(1) Funeral home or mortuary	One (1) space per four (4) seats or seating spaces in the main chapel or parlor;	None
(2) Financial institution with drive-in windows	One (1) space per 350 square feet of floor area; plus Eight (8) stacking spaces for the first drive-in window; plus Two (2) stacking spaces for each additional window.	None
(3) Financial institutions without drive-in windows.	One (1) space per 350 square feet of floor area.	None
(4) Freestanding ATM	Four (4) spaces per machine	None
(4.1) Payday loan establishment	One (1) space per 350 square feet of floor area	None
(4.2) Tattoo parlor	One (1) space per 200 square feet of gross floor area, or two (2) spaces per client chair, whichever is greater	None
(5) Medical or dental clinic/office	Two (2) spaces per examination or	None



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	treatment room; plus One (1) space per 350 square feet of administrative office space.	
(6) Offices – business or professional	One (1) space per 350 square feet of floor area but in no case less than three (3) spaces.	One (1) space per building or per building grouping capable of being served by a single space.
(7) Personal Service Establishments (Barber/beauty shops, apparel services, , etc.)	One (1) space per 200 square feet of gross floor area, or two (2) spaces per client chair, whichever is greater	None
(8) Motel, hotel, motor lodge	One (1) space per sleeping room or suite for first 100 units; plus <ul style="list-style-type: none"> <li>0.9 spaces per sleeping room or suite for units 101 through 200</li> <li>0.8 spaces per sleeping room or suite for units 201 through 300</li> <li>0.7 spaces per sleeping room or suite for units in excess of 300; plus</li> </ul> One space for each 250 square feet of floor area used for meeting rooms and for the preparation, serving or consumption of food or beverage, but not including storage and refrigeration areas.	One (1) space; plus One (1) additional space for on-site restaurant
(9) Timeshare resort	1.3 spaces per unit.	None
(10) Restaurant: Sit Down and Brew Pub	One (1) space per 100 square feet of total gross floor area; NOTE: <i>Outdoor dining area shall be included in the calculations.</i>	One (1) space
(11) Restaurant: Fast Food or Drive-In	One and one-half (1 1/2) spaces per 100 square feet of gross floor area inclusive of outside dining area; plus Eleven (11) stacking spaces for the first drive-in window; plus Three (3) stacking spaces for each additional drive-in window.	One (1) space
(12) Restaurant: Drive-Through Only	Five (5) spaces; plus Eighteen (18) stacking spaces for the first drive-in window; plus Three (3) stacking spaces for each additional drive-in window.	One (1) space
(13) Nightclubs, bars, taverns, dance halls	One (1) space for every 60 square feet of floor area, excluding kitchen areas	One (1) space
(14) Commercial reception hall or conference center	One (1) space for every four (4) seats or sixty (60) square feet of assembly area	One (1) space
(15) All other Category 11 uses	One (1) space per 350 square feet of gross floor area	One (1) space, unless waived by the zoning administrator in consideration of the specific nature of the use.

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**OLD BUSINESS**

There was no old business.

**NEW BUSINESS**

There was no new business.

**STAFF REPORTS**

Mr. Mark Carter referred to the Development Activity Report dated August 9, 2006 and offered to answer questions.

**COMMITTEE REPORTS**

Mr. Ptasznik reported on the continuing work of the Mixed Use Development Committee.

**COMMISSION REPORTS AND REQUESTS**

Mr. Ptasznik noted the Commission conducted a work session regarding Application No. ZM-104-06 and would hold another on August 23, 2006 at 6:30 PM.

**STAFF REPORTS**

Mr. Carter reported on recent actions by the Board of Supervisors. He asked the Commissioners to report to him or Mr. Cross if there were any particular map issues they would like addressed at the August 23<sup>rd</sup> work session to allow the staff an opportunity to do the necessary research and analysis.

**FUTURE BUSINESS**

Mr. Carter advised of future applications.

**ADJOURN**

The meeting was adjourned by order of the Chair at 8:25 p.m.

**SUBMITTED:**

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Phyllis P. Liscum, Secretary

**APPROVED:**

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Alfred E. Ptasznik, Jr., Chair

**DATE:**

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